

MINUTES OF BENTON COUNTY QUORUM COURT

July 26, 2007

A regular meeting of the Benton County Quorum Court was held on Thursday, July 26, 2007 at 5:00 p.m. at the Benton County Administration Building, 215 East Central Avenue, Bentonville, Arkansas, pursuant to proper call and notice.

County Judge Gary Black called the meeting to order.

Deputy Clerk Betsy Deaton called roll as follows:

12 JP's Present:	Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf
1 Absent:	Wozniak

JP Summers made motion to amend the agenda by adding a resolution as Item "J", seconded by JP Stephenson. Motion passed by unanimous voice vote.

The presiding officer led the pledge of allegiance to the flag. Reverend Jeff Odom of Word of Life Fellowship led the prayer.

A moment of silence was held in support of the men and women serving in the United States Armed Forces.

MINUTES:

JP Hill made motion to approve the Minutes of the regular meeting of June 28, 2007 and the special meeting of July 18, 2007 as distributed, seconded by JP Hill. Motion to approve the minutes carried by unanimous voice vote.

COUNTY JUDGE'S REPORT:

County Judge Gary Black welcomed newly appointed Coroner Wesley Lewis, and noted that his selection was unanimous. Coroner Wesley Lewis stated that he appreciated all of the assistance and support he has received from the various county offices.

County Judge Gary Black recognized Planning Director Ashley Pope, who recognized outgoing Planning Board members John Butler and Melana Ewing and presented them with plaques thanking them for their service to the county.

ELECTED OFFICIALS REPORT:

None

COMMITTEE REPORTS:

JP Moore reported that the Long Range Planning/Properties & Equipment Committee met on July 17, 2007. He said that several topics were discussed including the potential of moving some county offices to the St. Mary's Hospital building which will be vacated early next year, and that the committee is planning to tour the complex in the near future.

PUBLIC COMMENTS:

Don Day noted that junked vehicles are mentioned in the proposed nuisance ordinance, while junked bulldozers and tractors are not, and that Environmental Services is doing aerial surveillance on remote areas of the county in order to issue citations. He said he would assume that vacation cabins will also be targeted because they are not continually occupied, and he had tried to warn them about costly, unwarranted government harassment. He urged the Court to change the ordinance back to the form it was in before the obsessive language was added. He said that there is another oppressive ordinance in the works, which FEMA is pressuring them to approve as an emergency ordinance, and which could negatively affect growth and development in the area.

Tanya Lewis stated that photos presented to the Quorum Court by the Beaver Shores Property Owners Association were more than two years old, and were taken by someone who came on to her property without her permission. She stated that she is concerned that the ordinance will be used by people who move into the area and later decide they do not like what they see.

Ken Wenzinger stated that the cars shown in pictures of his property distributed by the Beaver Shores Property Owners Association are not junk, but an investment, and he pays taxes on all of them. He said rodents are to be expected in the area, and are not due to cars parked in people's yards. He said he does not understand the reason for the complaints, and according to his taxes, the value of his property has not decreased.

Brenda Parcell stated that she wanted to confirm that the cars in the Lewis' yard all run, and she is their immediate neighbor and has no problem with them. She noted that she has a junky pick-up truck which she needs as a second vehicle, and cannot believe that they would have the audacity to declare someone's home unlivable, especially when it could be an elderly couple who cannot afford to have it fixed. She said instead of having them evicted, they should contact a volunteer organization to assist them with repairs, because there are too many homeless people on the streets already. She also noted that her property values have increased in the 3 years she has lived there, despite race cars in the yard next door.

Sereta Behrens stated that the person who took the photo of the Lewis' home had to have been standing on their front porch to take it, and that members of the Beaver Shores Property Owners Association approached her because her son's sports car was parked in her yard while he was away serving in the Navy. She expressed concern that the proposed nuisance ordinance will allow the Property Owners Association to continue to harass people in Beaver Shores. She added that a neighbor recently sold a home at a considerable profit, so she does not see any property devaluation.

Connie Henry stated that as a member of the Board of the Beaver Shores Property Owners Association, she has not heard any of the stories she is hearing tonight. She said she is aware that the pictures were taken, but did not believe that any trespassing had occurred. She said it is the Board's policy to talk to the homeowner or send them a letter when there is a problem, but they have not harassed anyone. She said they only have very limited restrictions at Beaver Shores, not covenants, so they do not have any way to get things cleaned up. She said they are asking the county for some help, and hope they will consider everything they have heard before voting.

Brent Bottoms stated that nobody has heard anything about the ordinance, and it will affect the entire county, not just Beaver Shores. He said that Mr. Wenzinger has his cars as a retirement plan because the current President has told us that Social Security is not there anymore and we need to take care of our own retirement. He said that photos were taken of his property without his permission, and they should have asked first. He said these people are walking around the streets after 10 p.m. disturbing the peace and quiet of the community and intentionally antagonizing his dog.

Pat Wolf stated that she has been on the Board of the Beaver Shores Property Owners Association for 4 years, and this is the first time she has heard accusations of harassment. She said that her family also enjoys cars as a hobby, but they keep them in a large shop building to be considerate of their neighbors, and nothing is viewable from the road. She said she drives by one home everyday that has 20 to 30 cars in the yard, and it would not bother her at all if there was a fence to keep them out of sight. She said Beaver Shores is a beautiful neighborhood and they just want some help in convincing their neighbors to clean up their junk.

Brian Behrens quoted a statement by a Justice of the Peace that referred to a mindset that people who live in the county do so because they do not want any restrictions at all. He said they are restricting their property rights, and it is not fair to the people who have been there for years to have new people come in and cause problems.

Tommy Lewis stated that he agrees that everyone needs to take care of their property, but people live in the county because they do not want city laws, so they should have more rights to do so. He said that his home was in the photos distributed by the Beaver Shores Property Owners Association, and they were taken 2 years ago while his 12-year-old daughter was home by herself, and it frightened her. He said he has researched property values in the Beaver Shores area, and he has not found any that have decreased in value.

Glynda Caldwell stated she was on the Board of the Beaver Shores Property Owners Association for seven years, and they have always encouraged people who have come to them with complaints to go to their neighbors and offer to help. She said she is surprised and shocked to hear these stories tonight, because they have had many meetings on this subject and she has not heard them before. She stated that none of the actions described were condoned by any P.O.A. Board that she was sitting on, and noted that investments sitting out in the weather are not likely to increase in value, but will attract snakes, rodents, wasps, and mosquitoes.

Warren Phillips stated that the comments tonight confirm his concern that this ordinance will cause problems between neighbors, and using it to force people to remove their cars will only cause more hard feelings. He said he and his neighbors are concerned that the new FEMA ordinance will cause a lot of problems for property owners in the area.

JP Summers made motion to amend the agenda by moving Item "I" to the beginning of New Business, seconded by JP Wolf. Motion passed by unanimous voice vote.

OLD BUSINESS:

- (A) Second Reading of Proposed Ordinance to Amend Section 2-106 of the *Code of Ordinances of Benton County, Arkansas* to Change the Meeting Time and Provide Clarification of the Order of Business for the Committee of 13; and for Other Purposes; Sponsor: JP Bobby Hubbard

Deputy Clerk Betsy Deaton read the proposed ordinance by title only. JP Hubbard made motion to suspend the rules and place the proposed ordinance on third and final reading, seconded by JP Glass.

There being no discussion, a roll call vote was recorded as follows:

11 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore,
Stephenson, Summers, Winscott, Wolf
1 abstain: Schindler
1 absent: Wozniak

Motion to suspend the rules and place the ordinance on third and final reading passed.

Deputy Clerk Betsy Deaton read the proposed ordinance by title only. JP Hubbard made motion to adopt, seconded by JP Hobbs.

JP Schindler proposed an amendment to the ordinance to compare the attendance, excluding media and county staff, between meetings held at 5:00 p.m. and meetings held at 6:00 p.m., and that the comparison last for a period of 4 months, seconded by JP Moore. JP Wolf stated that any amendment to the ordinance will place it back on its first reading, and stated that the correct motion would be to place the ordinance back on its first reading. JP Schindler stated that he is concerned about county employees who have to stay two hours late after a full day's work. He said that he wants to have some method of measuring the success of the time change. He said they have had almost standing room only at the previous two 5 p.m. meetings, so it is apparent that people who are interested will come. JP Stephenson stated he does not see the need for an amendment, because if they decide in a few months that the 6:00 p.m. meeting time for Committee of 13 is not working, they have the option to change it in the same manner they are changing it now. JP Glass stated that they have covered this in previous discussion, and since Committee of 13 is a working meeting, it is the best venue for the public to be heard, and starting at 6:00 will make that easier for them. JP Schindler stated that he will vote against the ordinance because there are 200,000 people in Benton County, and one person has asked for a time change, and employees have to stay for the entire meeting to make presentations. JP Winscott stated that he has had 3 to 6 people tell him that they would attend the meetings if they started at a later time, and although it will require county employees to stay late, they have to remember that

government is to serve the people, and does not exist to serve county employees—county employees exist to serve the people.

JP Wolf pointed out that the discussion should be on the motion to return the ordinance to its first reading, and that the vote will require a two-thirds majority.

There being no further discussion on the motion to return the ordinance to first reading, a roll call vote was recorded as follows:

1 yea: Schindler
10 nays: Brown, Glass, Harrison, Hobbs, Hubbard, Moore, Stephenson, Summers,
Winscott, Wolf
1 absent: Wozniak

Motion to return to first reading failed.

There being no further discussion on the motion to adopt, a roll call vote was recorded as follows:

10 yeas: Brown, Glass, Harrison, Hobbs, Hubbard, Moore, Stephenson, Summers,
Winscott, Wolf
2 nays: Hill, Schindler
1 absent: Wozniak

Ordinance duly adopted and assigned No. **O-2007-13**.

NEW BUSINESS:

(I) Proposed Ordinance for the Declaration and Abatement of Public Nuisances;
Sponsor: Environmental Committee

JP Schindler made motion to read by title only, seconded by JP Stephenson. Motion passed by unanimous voice vote. Deputy Clerk Betsy Deaton read the proposed ordinance by title only.

JP Schindler requested that the proposed ordinance be allowed to appear on the agenda at three separate meetings, and that there be no motion to suspend the rules to place it on second reading tonight.

There was discussion regarding whether there should be a period of discussion on the ordinance after its first and second readings, and voting procedures. JP Wolf stated that the first two readings are to provide a forum for public comment. JP Moore stated that anyone can move to table the ordinance if they do not wish it to go forward. County Judge Gary Black stated that the proposed ordinance will be placed on the August 23, 2007 Quorum Court agenda for second reading.

Court recessed.

Court back in session.

- (A) Proposed Resolution Confirming an Appointment by the County Judge to the Benton County Planning Board; Sponsor: JP Kurt Moore

Deputy Clerk Betsy Deaton read the proposed Resolution in full. JP Moore made motion to adopt, seconded by JP Summers.

There being no further discussion, a roll call vote was recorded as follows:

12 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler,
Stephenson, Summers, Winscott, Wolf
1 absent: Wozniak

Resolution duly adopted and assigned No. **R-2007-13**.

- (B) Proposed Resolution Confirming an Appointment by the County Judge to the Benton County Planning Board; Sponsor: JP Kurt Moore

Deputy Clerk Betsy Deaton read the proposed Resolution in full. JP Moore made motion to adopt, seconded by JP Glass.

There being no further discussion, a roll call vote was recorded as follows:

12 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler,
Stephenson, Summers, Winscott, Wolf
1 absent: Wozniak

Resolution duly adopted and assigned No. **R-2007-14**.

- (C) Proposed Resolution Confirming an Appointment by the County Judge to the Benton County Planning Board; Sponsor: JP Kurt Moore

Deputy Clerk Betsy Deaton read the proposed Resolution in full. JP Moore made motion to adopt, seconded by JP Hill.

There being no further discussion, a roll call vote was recorded as follows:

12 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler,
Stephenson, Summers, Winscott, Wolf
1 absent: Wozniak

Resolution duly adopted and assigned No. **R-2007-15**.

County Judge Gary Black administered the Oath of Office to Mark Gray, Caleb Henry, and Heath Ward.

- (D) Proposed Resolution Granting a Waiver of the Policy as Established in Sec. 2-534 of *The Code of Ordinance of Benton County* Regarding Payments Within the Range for Various Positions in Various Funds and Departments; Sponsor: JP Tim Summers

Deputy Clerk Betsy Deaton read the proposed Resolution in full. JP Stephenson made motion to adopt, seconded by JP Hill.

There being no further discussion, a roll call vote was recorded as follows:

12 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler,
Stephenson, Summers, Winscott, Wolf
1 absent: Wozniak

Resolution duly adopted and assigned No. **R-2007-16**.

- (E) Proposed Resolution Expressing the Willingness of Benton County, Arkansas to Participate in the Jail-Inmate Litter Pick-up Program; Sponsor: JP Debra Hobbs

Deputy Clerk Betsy Deaton read the proposed Resolution in full. JP Hobbs made motion to adopt, seconded by JP Hill.

There being no further discussion, a roll call vote was recorded as follows:

12 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler,
Stephenson, Summers, Winscott, Wolf
1 absent: Wozniak

Resolution duly adopted and assigned No. **R-2007-17**.

- (F) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. 2006-24 (**2007** Benton County Budget) to Amend Schedule 4 Personnel and Compensation Authorization by Adding Positions, Deleting Positions, and Changing Grades of Some Positions in Various Funds and Departments; Sponsor: JP Tim Summers

Deputy Clerk Betsy Deaton read the proposed appropriation ordinance by title only. JP Summers made motion to adopt, seconded by JP Glass.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler,
Stephenson, Summers, Winscott, Wolf
1 absent: Wozniak

Appropriation Ordinance duly adopted and assigned **No. O-2007-14**

- (G) Proposed Ordinance Correcting the Legal Boundary Description of the Northeast Benton County Emergency Medical Services District (VAS) Service Area;
Sponsor: JP Christian Glass

JP Glass made motion to read by title only, seconded by JP Wolf. Motion passed by unanimous voice vote. Deputy Clerk Betsy Deaton read the proposed ordinance by title only. JP Glass made motion to suspend the rules and place the ordinance on second reading, seconded by JP Stephenson.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler,
Stephenson, Summers, Winscott, Wolf
1 absent: Wozniak

Motion to suspend the rules and place the ordinance on second reading passed.

Deputy Clerk Betsy Deaton read the proposed ordinance by title only. JP Glass made motion to suspend the rules and place the ordinance on third and final reading, seconded by JP Stephenson.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler,
Stephenson, Summers, Winscott, Wolf
1 absent: Wozniak

Motion to suspend the rules and place the ordinance on third and final reading passed.

Deputy Clerk Betsy Deaton read the proposed ordinance by title only. JP Glass made motion to adopt, seconded by JP Stephenson. JP Glass stated that the original legal description was incorrect and needs to be corrected.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler,
Stephenson, Summers, Winscott, Wolf
1 absent: Wozniak

Ordinance duly adopted and assigned No. **O-2007-15**.

(H) Proposed Ordinance Correcting the Legal Boundary Description of the Northeast Benton County Volunteer Fire Department Service Area; Sponsor: JP Christian Glass

JP Glass made motion to read by title only, seconded by JP Moore. Motion passed by unanimous voice vote.

Deputy Clerk Betsy Deaton read the proposed ordinance in by title only. JP Glass made motion to suspend the rules and place the ordinance on second reading, seconded by JP Winscott.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler,
Stephenson, Summers, Winscott, Wolf
1 absent: Wozniak

Motion to suspend the rules and place the ordinance on second reading passed.

Deputy Clerk Betsy Deaton read the proposed ordinance by title only. JP Glass made motion to suspend the rules and place the ordinance on third and final reading, seconded by JP Hill.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler,
Stephenson, Summers, Winscott, Wolf
1 absent: Wozniak

Motion to suspend the rules and place the ordinance on third and final reading passed.

Deputy Clerk Betsy Deaton read the proposed ordinance by title only. JP Glass made motion to adopt, seconded by JP Hill.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler,
Stephenson, Summers, Winscott, Wolf
1 absent: Wozniak

Ordinance duly adopted and assigned **No. O-2007-16**.

(J) Proposed Resolution Naming the Little Sugar Creek Bridge on Highway 72 West in Honor of John M. Black; Sponsor: JP Tim Summers

Deputy Clerk Betsy Deaton read the proposed Resolution in full. JP Summers made motion to adopt, seconded by JP Stephenson. JP Summers stated that it is an honor to make the motion to approve, and that he knew Chief Black, and held him and his wife Maxine in very high regard.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler,
Stephenson, Summers, Winscott, Wolf
1 absent: Wozniak

Resolution duly adopted and assigned No. **R-2007-18**.

OTHER BUSINESS:

JP Hill made motion that County Attorney Robin Green draft a resolution expressing support and appreciation for Chief Deputy Coroner Daniel Oxford for his service during the former Coroner's absence, seconded by JP Winscott.

JP Stephenson stated that the JDC Ad Hoc Committee has tried to address the problems of overcrowding in the Juvenile Detention Center, but there are other overwhelming needs of the county that need to be addressed. There was discussion concerning how to proceed with addressing the various needs throughout the county.

JP Stephenson suggested that sufficient funds be budgeted for a professional, comprehensive study of the near and future needs of the county regarding facilities. JP Summers made motion for the County Judge to bring a proposal for determining the exact facility needs of the county to the September Committee of 13 meeting, seconded by JP Hobbs. Motion passed by unanimous show of hands vote.

ANNOUNCEMENTS:

JP Summers announced that the Finance Committee will meet Tuesday, August 7, 2007 at 2:30 p.m., and the Committee of Thirteen will meet Tuesday, August 14, 2007 at 5:00 p.m.

There being no further business to come before the court, upon motion and second the meeting was adjourned at 7:20 p.m.

Respectfully submitted,

Mary L. Slinkard,
County Clerk

Prepared by: Betsy Deaton